IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6487 OF 2004

Smt. Gangabai Jetappa Bansode..... Petitioner.

Versus

Smt.Kontyavva Jetappa Bansode..... Respondents.

Mr. H. A. Solkar for the Petitioner.

Mr. G. S. Godbole for the Respondent.

CORAM : S. A. BOBDE, J.

DATED : 9TH JUNE, 2005.

P.C.:

Rule.

2. Mr. Godbole, learned Counsel, appears and waives service of Rule on behalf of the Respondent.

3. Rule made returnable forthwith and heard by consent.

4. The Petitioner Gangabai, who claimed to be the legally wedded wife of one Jetappa, has challenged the order of the Appellate Court denying her a succession

certificate. The trial Court held that both the Petitioner Gangabai as well as Respondent Kontyavva are legally wedded wives. Accordingly, the trial Court granted two 1/4th shares of the statutory dues arising out of Jetappa's employment with the Zilla Parishad to the two children of Gangabai and another 1/4th to her. The remaining 1/4th share was granted to Kontyavva, the Respondent herein.

5. The Respondent Kontyavva appealed to the District Court, Solapur. On an appreciation of the oral and documentary evidence the District Court has reversed the order of the trial Court and held that there is no evidence of a legal marriage between Gangabai and deceased Jetappa and consequently has granted 1/2th share to the Respondent Kontyavva and two 1/4th shares to the children of Gangabai. No share has been granted to Gangabai.

6. Mr. Solkar, learned Counsel for the Petitioner, vehemently argued that there is evidence brought in the cross examination of Kontyavva to show that Gangabai is not the mistress but a legally wedded wife. Mr. Solkar submitted that the contest is really a matter of status and not a question merely of

money. However, having seen the evidence, I find no fault in the observation of the Appellate Court that there is no cross examination on behalf of Gangabai to the statement of Kontyavva that she is the legally wedded wife and that Gangabai is a mistress of Jetappa. The only cross examination is to the effect that Gangabai's children are the legal heirs.

7. Apart from this there is documentary evidence in the form of voters list of the year 1984 which shows Kontyavva as the legally wedded wife. The voters list relied upon by Gangabai showing her to be the wife is of the year 1995. This is the only piece of documentary evidence on record. It is clear that the Court had no option but to decide the matter on the basis of the evidence adduced before it and has done so accordingly. The order of the Appellate Court cannot be said to be vitiated by any manifest error of law apparent on the face of the record. The appellate order does not call for any interference. Writ Petition is, accordingly, dismissed. Rule discharged.

Sd/-

(S. A. BOBDE, J.)